

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE APRIL 20, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1476

Introduced by Senator Padilla

February 19, 2010

An act to add Chapter 5 (commencing with Section 8380) to Division 4.1 of, and to repeal Section 393 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1476, as amended, Padilla. Public utilities: customer privacy: advanced metering infrastructure.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined.

Existing law requires the commission to conduct a pilot study of certain customers of each electrical corporation to determine the relative value to ratepayers of information, rate design, and metering innovations using specified approaches, but prohibits this data from being used for any commercial purpose, unless authorized by the customer.

This bill would repeal the provisions relating to the pilot study.

~~The bill would require an electrical corporation or gas corporation that utilizes an advanced metering infrastructure that allows a customer to access the customer's electrical or gas consumption data, as defined, to ensure that the customer has an option to access that data without being required to agree to the sharing of his or her personally identifiable~~

information, including electrical or gas consumption data, with a 3rd party. ~~The~~ This bill would prohibit an electrical corporation or gas corporation from sharing, disclosing, or otherwise making accessible to any 3rd party a customer's electrical or gas consumption data, *as defined*, except as specified, and would require those utilities to use reasonable security procedures and practices to protect a customer's electrical and gas consumption data from unauthorized access, destruction, use, modification, or disclosure. The bill would prohibit an electrical corporation or gas corporation from selling a customer's electrical or gas consumption data or any other personally identifiable information for any purpose. *The bill would prohibit an electrical corporation or gas corporation from conditioning a customer's access to electrical or gas consumption data on the payment of an incentive or discount. The bill would provide that if the electrical corporation or gas corporation contracts with a 3rd party for a service that allows a customer to monitor his or her electricity or gas usage, and the 3rd party uses the data for a secondary commercial purpose, the utility is required to ensure that the 3rd party prominently discloses that secondary use of the data to the customer and requires the utility to provide the customer with an option to monitor his or her electricity and gas usage that is not conditioned upon the use of the data by a 3rd party for a secondary commercial purpose.* The bill would adopt near identical requirements applicable to a local publicly owned electric utility with respect to electrical consumption data, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 393 of the Public Utilities Code is
- 2 repealed.
- 3 SEC. 2. Chapter 5 (commencing with Section 8380) is added
- 4 to Division 4.1 of the Public Utilities Code, to read:
- 5
- 6 CHAPTER 5. PRIVACY PROTECTIONS FOR ENERGY CONSUMPTION
- 7 DATA
- 8
- 9 8380. (a) ~~(1)~~ For purposes of this section, "electrical or gas
- 10 consumption data" means data about a customer's electrical or

1 natural gas usage that is made available as part of an advanced
2 metering infrastructure.

3 ~~(2) For purposes of this section, an authorization,~~
4 ~~acknowledgment, or consent is “written” or “in writing” if made~~
5 ~~by an “electronic record” that includes a “digital signature” as~~
6 ~~those terms are defined in Section 1633 of the Civil Code.~~

7 ~~(b) An electrical or gas corporation that utilizes an advanced~~
8 ~~metering infrastructure that allows a customer to access the~~
9 ~~customer’s electrical and gas consumption data shall ensure that~~
10 ~~the customer has an option to access that data without being~~
11 ~~required to agree to the sharing of his or her personally identifiable~~
12 ~~information, including electrical or gas consumption data, with a~~
13 ~~third party. The electrical corporation or gas corporation shall not~~
14 ~~contract with any third party that facilitates access to electrical or~~
15 ~~gas consumption data that provides an incentive or discount to the~~
16 ~~customer for accessing his or her electrical or gas consumption~~
17 ~~data, except as provided in paragraph (3) of subdivision (b).~~

18 ~~(e)~~

19 ~~(b) (1) An electrical corporation or gas corporation shall not~~
20 ~~share, disclose, or otherwise make accessible to any third party a~~
21 ~~customer’s electrical or gas consumption data, except as provided~~
22 ~~in paragraph (3) subdivision (e) or upon the consent of the~~
23 ~~customer.~~

24 ~~(2) An electrical corporation or gas corporation shall not sell a~~
25 ~~customer’s electrical or gas consumption data or any other~~
26 ~~personally identifiable information for any purpose.~~

27 ~~(3) An electrical corporation or gas corporation may make a~~
28 ~~customer’s electrical or gas consumption data accessible to a third~~
29 ~~party if the customer was given the option, pursuant to subdivision~~
30 ~~(b), to access electrical or gas consumption data without being~~
31 ~~required to share personally identifiable information with a third~~
32 ~~party and the customer has given his or her express written consent~~
33 ~~for a demand response or energy efficiency program, provided by~~
34 ~~a third party, that manages the customer’s consumption of energy~~
35 ~~in response to supply or pricing conditions.~~

36 ~~(c) An electrical corporation, gas corporation, and any~~
37 ~~contractor of the utility shall not condition a customer’s access to~~
38 ~~electrical or gas consumption data on the payment of an incentive~~
39 ~~or discount. If an electrical corporation or gas corporation~~
40 ~~contracts with a third party for a service that allows a customer~~

1 *to monitor his or her electricity or gas usage, and that third party*
2 *uses the data for a secondary commercial purpose, the electrical*
3 *corporation or gas corporation shall ensure that the third party*
4 *prominently discloses that secondary use to the customer. The*
5 *electrical corporation or gas corporation shall also provide the*
6 *customer with an option to monitor his or her electricity or gas*
7 *usage, which is not conditioned on the use of the data by a third*
8 *party for a secondary commercial purpose.*

9 (d) An electrical corporation or gas corporation shall use
10 reasonable security procedures and practices to protect a customer's
11 electrical or gas consumption data from unauthorized access,
12 destruction, use, modification, or disclosure.

13 (e) (1) Nothing in this section shall preclude an electrical
14 corporation or gas corporation from using customer aggregate
15 electrical or gas consumption data for analysis, reporting, or
16 program management if all information has been removed
17 regarding the individual identity of a customer.

18 (2) Nothing in this section shall preclude an electrical
19 corporation or gas corporation from disclosing a customer's
20 electrical or gas consumption data to a third party for system, grid,
21 ~~or other operational needs~~ *operational needs, or the implementation*
22 *of demand response or energy efficiency programs*, provided that
23 the utility has required by contract that the third party implement
24 and maintain reasonable security procedures and practices
25 appropriate to the nature of the information, to protect the personal
26 information from unauthorized access, destruction, use,
27 modification, or disclosure.

28 (3) Nothing in this section shall preclude an electrical
29 corporation or gas corporation from disclosing electrical or gas
30 consumption data as required under state or federal law or by an
31 order of the commission.

32 (f) If a customer chooses to disclose his or her electrical or gas
33 consumption data to a third party that is unaffiliated with, and has
34 no other business relationship with, the electrical or gas
35 corporation, the electrical or gas corporation shall not be
36 responsible for the security of that data, *or its use or misuse*.

37 8381. (a) ~~(1)~~ For purposes of this section, "electrical
38 consumption data" means data about a customer's electrical usage
39 that is made available as part of an advanced metering
40 infrastructure.

1 ~~(2) For purposes of this section, an authorization,~~
2 ~~acknowledgment, or consent is “written” or “in writing” if made~~
3 ~~by an “electronic record” that includes a “digital signature” as~~
4 ~~those terms are defined in Section 1633 of the Civil Code.~~

5 ~~(b) A local publicly owned electric utility that utilizes an~~
6 ~~advanced metering infrastructure that allows a customer to access~~
7 ~~the customer’s electrical consumption data shall ensure that the~~
8 ~~customer has an option to access that data without being required~~
9 ~~to agree to the sharing of his or her personally identifiable~~
10 ~~information, including electrical consumption data, with a third~~
11 ~~party. The local publicly owned electric utility shall not contract~~
12 ~~with any third party that facilitates access to electrical consumption~~
13 ~~data that provides an incentive or discount to the customer for~~
14 ~~accessing his or her electrical consumption data, except as provided~~
15 ~~in paragraph (3) of subdivision (b).~~

16 ~~(e)~~

17 ~~(b) (1) A local publicly owned electric utility shall not share,~~
18 ~~disclose, or otherwise make accessible to any third party a~~
19 ~~customer’s electrical consumption data, except as provided in~~
20 ~~paragraph (3); subdivision (e) or upon the consent of the customer.~~

21 ~~(2) A local publicly owned electric utility shall not sell a~~
22 ~~customer’s electrical consumption data or any other personally~~
23 ~~identifiable information for any purpose.~~

24 ~~(3) A local publicly owned electric utility may make a~~
25 ~~customer’s electrical consumption data accessible to a third party~~
26 ~~if the customer was given the option, pursuant to subdivision (b),~~
27 ~~to access electrical consumption data without being required to~~
28 ~~share personally identifiable information with a third party and~~
29 ~~the customer has given his or her express written consent for a~~
30 ~~demand response or energy efficiency program, provided by a~~
31 ~~third party, that manages the customer’s consumption of electricity~~
32 ~~in response to electrical supply or pricing conditions.~~

33 ~~(c) A local publicly owned electric utility and any contractor~~
34 ~~of the utility shall not condition a customer’s access to electrical~~
35 ~~consumption data on the payment of an incentive or discount. If~~
36 ~~a local publicly owned electric utility contracts with a third party~~
37 ~~for a service that allows a customer to monitor his or her electricity~~
38 ~~usage, and that third party uses the data for a secondary~~
39 ~~commercial purpose, the local publicly owned electric utility shall~~
40 ~~ensure that the third party prominently discloses that secondary~~

1 *use to the customer. The local publicly owned electric utility shall*
2 *also provide the customer with an option to monitor his or her*
3 *electricity usage, which is not conditioned on the use of the data*
4 *by a third party for a secondary commercial purpose.*

5 (d) A local publicly owned electric utility shall use reasonable
6 security procedures and practices to protect a customer's electrical
7 consumption data from unauthorized access, destruction, use,
8 modification, or disclosure.

9 (e) (1) Nothing in this section shall preclude a local publicly
10 owned electric utility from using customer aggregate electrical
11 consumption data for analysis, reporting, or program management
12 if all information has been removed regarding the individual
13 identity of a customer.

14 (2) Nothing in this section shall preclude a local publicly owned
15 electric utility from disclosing a customer's electrical consumption
16 data to a third party for system, grid, or ~~other operational needs~~
17 *operational needs, or the implementation of demand response or*
18 *energy efficiency programs*, provided that the utility has required
19 by contract that the third party implement and maintain reasonable
20 security procedures and practices appropriate to the nature of the
21 information, to protect the personal information from unauthorized
22 access, destruction, use, modification, or disclosure.

23 (3) Nothing in this section shall preclude a local publicly owned
24 electric utility from disclosing electrical consumption data as
25 required under state or federal law.

26 (f) If a customer chooses to disclose his or her electrical
27 consumption data to a third party that is unaffiliated with, and has
28 no other business relationship with, the local publicly owned
29 electric utility, the utility shall not be responsible for the security
30 of that data, *or its use or misuse.*